76

Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No._____

In the Supreme Court of the United States

Kwame Gyamfi,
Petitioner,
v.

Janet Brown,
Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE DISTRICT OF COLUMBIA COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

O. Kwame Gyamfi
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QUESTIONS PRESENTED FOR REVIEW

Whether the District of Columbia Court of Appeals actions violated the petitioner's right to Due Process of the 14th Amendment and Equal Protection under Law of the U.S. Constitutional?

Whether the actions relative to this case in the District of Columbia Court of Appeals is not in compliance with this court's child "Best Interests" guidelines based on federal and state case law and statutes?

PARTIES TO THE PROCEEDING AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 14.1(b), the following list identifies all of the parties appearing here and in the court below.

The Petitioner here and in the District of Columbia Court of Appeals is *Kwame Gyamfi* who is a citizen of the United States and a resident of the state of Maryland.

The Respondent here and in the District of Columbia Court of Appeals is *Janet Brown* who is a citizen of the United States and a resident in the District of Columbia.

Pursuant to Rule 26.6, Petitioner states that no parties are corporations.

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Mr. Kwame Gyamfi respectfully petitions this Court based on this Writ of Certiorari based on interlocutory orders of the District of Columbia Court of Appeals in this case.

INTERLOCUTORY ORDERS BELOW

The orders of the D.C. Court of Appeals are found in (Appendix A) of this document..

JURISDICTION

The jurisdiction of this Court is invoked under Title 28 U.S.C. § 2101(c) and Rule 10(a) & 11 of this Court's rules.

CONSTITUIONAL PROVISIONS AND STATUTES

The 6th Amendment constitutional provision, 'right to counsel' is invoked based on an interlocutory order that dismissed the counselors of both litigants once the case was appealed to the D.C. Court of Appeals. This action forced the litigants to continue the case *pro se* in pursuit of a legal custody matter of a minor child.

The 14th Amendment constitutional provision provides '[N]or shall any state deprive any person of life, liberty or property without due process, nor deprive any person within its jurisdiction the equal protection under the law'.

Title 28 U.S.C. Section 1253 for direct appeals from decisions of three-judge courts is invoked due to several interlocutory orders issued in this court where as these orders were issued *sua sponte* by a single judge which violated Title 28 U.S.C. Section 46(b) that guaranteed under this federal statute a three-judge

panel in appellant matters in hearing cases and controversies of this matter.

Title 28 U.S.C. Section 2403(a) is invoked for the intervention by the Department of Justice in hearing matters once a federal question has been raised and a litigant has filed such challenge pursuant to Rule 44 of the Federal Rules of Appellant Procedure (FRAP) in the Court of Appeals, where as the Clerk of that court was to file with the Attorney General of the Department of Justice.

Title 42 U.S.C. Section 629 is invoked for the findings and purpose of an enactment of Congress to support adoptive parents and children under the 'Adoption and Safe Families Act of 1997'.

Title 42 U.S.C. Section 1983 is invoked because the petitioner asserts that documents mailed from he D.C. Court of Appeals, to both the petitioner and respondent, which as both litigants were instructed to file motions to withdraw their attorneys were executed 'Under the Color of Law'.

STATEMENT

This case comes before this honorable court with over three years of litigation and proceedings. The petitioner and respondent are the parents of a child, Isaiah Gyamfi born March 16th, 1998. The parents of the child, Mr. Gyamfi and Ms. Brown never married and both parents equally shared in the parenting and rearing of the child. The Petitioner, Mr. Gyamfi, later married on October 19, 2003 to Juliette Larmie and had two additional children, of the marriage, born in 2004 and 2006. In March of 2004, the respondent, Ms. Brown, filed for child support and received a temporary order until final review. The petitioner, Mr.

Gyamfi, at the instructions of the magistrate's court, challenged the temporary order by consolidating the temporary child-support order (See App I, pg __) with a custody petition with the Domestic Relations Branch of the Superior Court of the District of Columbia. This was the appropriate legal procedure and course of action described under D.C. Code __:___.

The custody trial proceedings concluded on January 27, 2005 and after a period of over a year, the petitioner filed a DOM. REL. Rule 52(c) motion on February 22nd, 2006 with the Chief Judge of the D.C. Superior Court compelling the trial court to issue a final order. The court issued the final order on July 7th, 2006 (See Appendix B). The petitioner appealed this order and filed a timely notice of appeal on August 4th, 2006 with the District of Columbia Court of Appeals (See Appendix D).

The respondent, Ms. Brown, filed a 'Child Protective Order' and 'Contempt' motion on August __, 2006. These new issues were heard before the trial court on January 10th-11th, 2007. Consequently, there were no findings of abuse or neglect raised in these proceedings. On February 1st, 2007, the petitioner, Mr. Gyamfi, filed the first legal brief with the District of Columbia Court of Appeals. On February 23rd, 2007, the respondent, Ms. Brown filed a 'Notice of Appeal'. The respondent, Ms. Brown, then filed a timely answer and reply the petitioner's first brief on March 24th, 2007.

On March 27th, 2007, the court sent a 'RETURN NOTICE' along with the legal briefs and appendices to both Mr. Gyamfi and Ms. Brown requesting that they file a "motion to withdraw the attorneys" from the case. (See Appendix D). Mr. Gyamfi would not file such

motion to dismiss his attorney sighting the seriousness of the case.

On April 11th, 2007, the D.C. Court of Appeals issued the first official order stating that they are have not received any filings of the briefs on the respondent's pending appeal case 06-FM-933. The court order directed both attorneys of record to file a brief and reply respectfully. The order then vacated the respondent's 'Notice of Appeal' filed February 24th, 2007 and finally dismissed the *amicus curia* petition entered by the respondent's biological father, Mr. Elliot Roy Brown, Sr (See Appendix A).

On April 26th, 2007, the Chief Judge for the D.C. Court of Appeals, *Sua Sponte*, reversed the April 11th, 2007 order and re-instated the respondent's vacated 'Notice of Appeal' #07-FM-289 and consolidated this appeal with the petitioner's appeal to establish a 'Cross Appeal'. The order also granted the motion's of the attorneys to withdrawal from the case allowing both litigants to precede *pro se*. Finally the order granted an additional 40 days to file a second appeal/cross appeal brief and reply brief.

On July 19th, 2007, Mr. Gyamfi filed his legal brief sighting three issues in his grievance with the trial court: *excerpts* 1) a challenge to Rule 52(a), the courts finding of facts 2) D.C. code 'Best Interests' statutes and 3) the constitutional issue of fairness under the 14th Amendment sighting the local D.C. Code addressing the definition of both the father and mother's relationship to the child.

When Ms. Brown failed to file her legal brief for her case #07-FM-289, within the 40 days, the petitioner, Mr. Gyamfi, filed a motion on July 18th, 2007 asking the court to comply with the original order to dismiss the respondent's appeal based on the out of time

jurisdiction of FRAP Rule 4(a). The court denied this motion (See Appendix A). The petitioner, Mr. Gyamfi, then filed on August 2nd, 2007 a Motion to 'Reconsider the Dismissal Motion' of case #07-FM-289 based on FRAP 4(6)(b,c) and Rule 31(c) for failure to file. The D.C. Court of Appeals denied the 'Reconsideration Motion'.

On August 30th, 2007, the petitioner filed a 'Notice of Challenge' pursuant to Rule 44 of FRAP. This motion combined the constitutional questions of 'Time Jurisdiction', 6th Amendment regarding the dismissal of the attorneys, the prejudice and 'expand the record' with continued hearings before the lower court and the *sua sponte* orders issued by the Chief Judge (See Appendix D).

The petitioner believes that these orders violated Title 28 U.S.C. Section 46(b) and the similar state statute of D.C. Code § 11-705(b), which guarantees that appeals are heard by , at minimal, a three judge panel. These orders by the Chief Judge were issued, *sua sponte*, by one judge, the Chief Judge, non-inclusive of the original three judges assigned to the case (See Appendix A). As of to-date, the 'Notice of Challenge' has not been addressed with the court or the Department of Justice, Attorney General, as described in FRAP.

On August 24th, 2007, Mr. Gyamfi filed a supplemental brief to address the August 18th, 2005 hearing upon which the trial court based its primary findings of fact in the final order1. This hearing was conducted six months after the trial date had already concluded. The supplemental brief was the petitioner's response to the trial court's allegations alleged in the finding of facts of the final order(See Appendix B). The petitioner then filed his final brief on September 20th,

2007 upon which he covered the orders addressing the January 10th and 11th 2007 hearing regarding the alleged allegations of abuse and neglect.

On October 24th, 2007, the Chief Judge, issued an order consolidating a notice of appeal regarding additional orders issued by the trial court granting additional attorney fees. The last order issued by the D.C. Court of Appeals was issued November 14th, 2007 denying the petitioner's motion on Rule 8(a) 'Stay' pending appeal (See Appendix A). The respondent, Ms. Brown, never challenged the motion, however, the D.C. Court of Appeals issued an order to deny the motion with no authorities, arguments or case law. Apparently, this order is in direct conflict with Rule 55 of the FRCP, which stipulates that a default judgment should have been issued by the clerk of the court sighting "no opposition" from the defendant.

The petitioner is filing this interlocutory appeal based on the November 14th, 2007 order and subsequent orders mentioned in this statement. It has become apparent to Mr. Gyamfi that the D.C. Court of Appeals have a bias in these proceedings as they will deny the petitioner's motions without the respondent having to file any counter motion or offer any arguments or justifications. Hence, this court is being ask intervene and assume jurisdiction of this case. monitor these proceedings or transfer this case to a federal court since federal questions were raised regarding the constitutionality of these proceedings.

SUPREME COURT RULE 10(a) & 11 CONSIDERATIONS GOVERNING REVIEW ON CERTIORARI

1) The D.C. Court of Appeals Does Not Provide Constitutional Protection of the Traditional Family Unit and is not in Compliance with this Court's federal statutes and guidelines

On October 26th, 2007, the petitioner filed a motion pursuant to Rule 8(a) of FRAP. The motion outlined four fundamental reasons as to why this 'Stay' should be granted. Those reasons were protection of the family unit, opportunity for prejudice, financial hardship and merit of the case. The respondent, Ms. Brown, never challenged this petition and the order does not make note of an opposition motion. However, the court issued an order on November 14th, 2007 to deny the petitioner's motion. The court offered no case authorities, rules or procedures to base its decision. Hence, the petitioner asserts that this motion should have been granted partly to the fact that there were no opposition pursuant Rule 55 of the Federal Rules of Civil Procedure (FRCP). The petitioner, Mr. Gyamfi, opted not to file another appeal or motion, out of concern that the D.C. Court of Appeals would further consolidate this appeal into an already existing appeal of four existing cases. Instead, this interlocutory appeal is based on the November 14th, 2007 interlocutory order (Appendix A, pg 13) and subsequent orders issued by the court. The petitioner believes that this pattern of orders is consistent with a bias and prejudice towards him because he is a father embroiled in a custody dispute. On consideration of this order, Mr.Gyamfi, asserts that the D.C. Court of Appeals has overstepped the "bounds of its duty under

Rule 52 if it undertakes to duplicate the role of the lower court" *Anderson v. Bessemer City S.Ct, 1985. 470 U.S. 564, 105 S.Ct. 1504, 84 L.Ed.2d 518.* This course of action by the D.C. Court of Appeals violates his 14th Amendment Constitutional right to a fair and impartial hearing. This belief by the respondent is based primarily on the merits of the case and the governing federal and state case law that promotes a child's 'Best Interests' mandate.

The petitioner points to the case of *Bazemore v. Davis, 394 A.2d 1377 (D.C. 1978),* which stipulated that unmarried parents are on equal footing when determining the legal custody of the child. However, there are differences when determining the legal parent child relationship. This legal relationship is determined under D.C. Code § 16-909(a) which stipulates that the legal relationship between a mother and child is established by birth, whereas the legal relationship between the father and his ability to assert a "best interest claim" in a court of law is established based on a "preponderance of proof" that he had established a parental relationship to the child. In the above reference case, the petitioner was able to establish this proof by providing a video documentary, photos and witnesses as to his established parental relationship to the child (See Appendix C, pgs 4-5). This was extremely important, because the respondent, Ms. Brown, made allegations during the March 11th, 2004 'Child Support' hearing that suggested that the petitioner was absent from the child's life and that the child needed medical treatment based on alleged diagnosis with extraordinary medical expenses and private school tuition (See Appendix C, pgs 1-3). These allegations were challenged in the Superior Court and discredited with the testimony of witnesses, such as, Mrs. Ada

Smith (long time care giver & baby sitter), Dr. Ovetta Harrison-Harris (expert witness) and Dr. Joyce Brown-Andrews (maternal aunt and sister of the respondent). In addition the medical records, insurance notices, video and print photos and canceled checks was evidence that the child was well properly taken care of (See Appendix, pgs 4-13). Lastly, the trial court was made fully aware that the child was apart of an existing family unit. This was one of the first exhibits introduced and certified on the record during the trial (See Appendix C, pgs 4).

The petitioner, Mr. Gyamfi, asserts that if the roles were reversed, then the trial judge would have never allowed an unwed father to impugn the family of the biological mother and stepfather of the minor child's two siblings. The marital unit would have been protected under the landmark decisions of this court as like *Lehr v. Robertson, 463, U.S. 248, 103 S. Ct. 2985, 77 L. Ed. 2d 614(1983)* which upheld an adoption decree of the step father in order to protect the marital unit. In addition, *Smith v. Org of Foster Families for Equality and Reform, 431 U.S. 816, 862-63, 97 S. Ct. 2094, 53 L. Ed. 2d 14 (1977)* emphasized that the force break up of a "natural family" without a showing of unfitness is a violation of due process. This point was emphasized in *Quilloin v. Wilcott, 434 U.S. 246, 255, 98 S. Ct. 549, 54 L. Ed. 2d 511 (1978).* And finally, probably one of the most important cases in family law statute is the extraordinary case of *Michael H. v. Gerald D., 491 U.S. 110 (1989).* This case emphasized the importance and protection of the marital family unit, even though both biological parents established a parental bond and relationship to the child. In Justice Scalia's opinion of the case, quoting Justice Powell in *Moore v. East Cleveland, 431 U.S. 494 (1977),* stating "Our decisions establish that

the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation's history and tradition". Thus, this court held to the conviction of protecting the marital family unit as well as all prior landmark family court cases, with the exception of *Dred Scott v. Sandford, 60 U.S. 393 (1856).*

The petitioner asserts that this case has significance, because he identifies with the plaintiff, Dred Scott in seeking the constitutional protection of his family. However, his case was relegated to an issue of "property and politics" of that time with no acknowledgement or recognition of the integrity of his family. Hence, the court is aware that Dred Scott's wife and two daughters were also named on the petition. Thus, the petitioner, Mr. Gyamfi's case has become one of discussion of "attorney fees" and "child support"; hence, *property;* with very little discussion of family law principles from the D.C. trial court. Hence, the petitioner asserts the importance of this case and its contribution to the family law and asks this court to consider its review.

2) The Court of Appeals interlocutory order violated both the federal and local statute of Title 28 U.S.C. Section 46(b) and D.C. Code § 11-705 which guarantees a three judge panel in hearing cases and controversies assigned to the court of appeals.

Pursuant to Rule 10(a), the petitioner asserts that the D.C. Court of Appeals "has so far departed from the accepted and usual course of judicial proceedings so as to call for an exercise of this Court's supervisory power". There are four primary instances upon which

the court departed from the usual course of these proceedings:

1) the March 27th, 2007 'Notice of Return' documents mailed to both litigants, Mr. Gyamfi and Ms. Brown, with instruction to encourage both parties to file motions to withdraw their attorneys is an extreme and unusual undertaking for any court to leave both litigants to handle their family matters pro se. This was done without any showing of gross negligence or fraud committed by the attorneys. In *Lassiter v. Department of Social Services S.Ct, 1981 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed.2d 640* the court recognized that "consideration must be given to the risk that a parent will be erroneously deprived of his or her child because the parent is not represented by counsel". This case emphasized the importance of legal counselors' involvement in family cases and points to North Carolina as an example of how some jurisdictions have decided to handle these matters, by assuring parents the right to counsel in such legal matters. Mr. Gyamfi, points to the lack of sensitivity and forethought on the part of the Chief Judge is his order to over-rule his three judge panel and allow the attorneys to withdraw from this case. This is a gross error of the state, and thus the federal courts and attorney general should intervene.

2), The Chief Judge of the D.C. Court of Appeals, *Sua Sponte*, to overturn the three judge panel order issued just two weeks prior, without a showing of gross error or negligence on the part of the three judge panel (See Appendix A, pgs 3-6). The petitioner was unable to find any case law that governs this issue. However, Title 28 U.S.C 2284 and Title 28 U.S.C. 46(b) stipulate that a three panel judge should hear cases and controversies and that this is a federal statute enacted

by the U.S. Congress. In addition, Section 2284 provides an opportunity for 'Direct Appeals' to the Supreme Court if violated. This issue was apart of the August 30th, 2007 Rule 44 Constitutional Challenge to the D.C. Court of Appeals.

3) The Court violation of FRAP (Rule 4) time limitations on filing a 'Notice to Appeal' from the respondent, Ms. Brown, whom filed an appeal on February 24, 2007 (See Appendix D), which is over 180 days after the final order date of July 7th, 2006. This was challenged in a Constitutional Federal Question challenge pursuant to Rule 44 of FRAP (See Appendix D). The D.C. Court of Appeals nor the Department of Justice have ever responded to this challenge which detailed several other infractions such as the 6th Amendment governing attorneys involvement in cases such as these, American Bar Association of Rules of Professional Conduct and lastly, concerns regarding the prejudice and attempted expansion of the record involved in this case. And

4) On August 1st, 2007, the petitioner visited the D.C. Court of Appeals and requested the public case file folder. To his dismay, he discovered that the three-judge panel never reviewed the July 18th, 2007 motion filed by the petitioner. However, the Chief Judge issued an order on July 26th, 2007 in an answer to the motion. However, the public case folder contained all four copies of the motion in which only one copy was stamped as received by the D.C. Court of Appeals.

The court should take note that the petitioner, Mr. Gyamfi, has filed a petition for the adoption of the minor child with the D.C. Courts, so as to ensure the legal protection of his family and private interest. This petition is in compliance with the congressional ***Adoption and Safe Family Act of 1997*** in protecting

families and children and furthermore supported by the Federal statute of Title 46 Section 629 (a)(b)(4). Lastly, in quoting the justice in, *Stanley v. Illinois, 405 U.S. 645, 651.* "..a parents desire for and right to companionship, care custody, and management of his or her children" is an important interest that "undeniably warrants deference and , absent a powerful countervailing interest, protection". "Here the State has sought not simply to infringe upon that interest, but to end it. If the state prevails, it will have worked a unique deprivation." *May v. Anderson, 345 U.S. 528, 533; Armstrong v. Manzo, 380 U.S. 545.* The petitioner suggests that the D.C. Court of Appeals have not aligned themselves with the rules that govern the family federal statutes of this court nor congress.

The petitioner concludes on this issue in stating that he believes that the D.C. Appeals court is violating the petitioner's constitutional right to fairness and impartiality. Furthermore, these actions suggest federal violations that govern the 'Color of Law' statutes. This course of action has kept the family in a constant state of perpetual legal flux. The petitioner brings to the court's attention the October 26th, 2007 order which consolidates four outstanding appeals into one. This case is almost four years old which has been a tremendous amount of stress on the family. Hence, the D.C. Court of Appeals lack of initiative to close this case violates the due process of all parties involved, especially the children. (See Appendix A, pg 13).

REASONS FOR GRANTING THE PETITION

This case is only microcosm of the crisis of the family court and the influx of "child support" encouraged by the state. No self-respecting parent would ever encourage non-financial support of their children; however, this court has to acknowledge that there are abuse child support schemes that operate under the color of law. The petitioner asserts that this is one such case. The abuse of the child support guidelines across the country is having a devastating impact of families and children. It clearly is not in the best interest of the U.S.A, to have its government regulate the lives of the family unit. Before our experience with family court, we thrived as a family and began the process of saving for our future and children. Unfortunately, the respondent and/or legal counselor decided to take advantage of the loose laws that govern family law proceedings and was able to damage the financial earnings of the petitioner along with his credibility as a Federal Information Technology consultant. However, this story is not unique, these abuse schemes are in full operation around the country and we're all impacted. The petitioner will outline several reasons as to why the court should grant this petition.

1) The D.C. Court of Appeals has truly violated the constitutional rights of both litigants. In violation of the federal statute that assures that cases are heard before three judge panels have been violated. The dismissal of the attorneys was truly gross error in judgment and demonstrated insincerity to the seriousness of the issues before this court. I can't imagine in parent opting to dismiss their attorney at the pinnacle of their court

proceeding. Finally, the Constitutional questions rose pursuant to Rule 44 of the FRAP was never challenged. The petitioner, Mr. Gyamfi, was unable to ascertain from the Office of the Attorney General, whether or not the D.C. Court of Appeals certified this challenge. The petitioner, humbly request, that this court may have better luck at getting information from the Department of Justice.

2) The Court should grant this petition to assure the general public that the constitution protects the traditional marital family. The culture has changed tremendously since 1989, when *Michael H. v. Gerald D* was heard. The roles of genders has changed tremendously and the court should re-evaluate state codes such as D.C. Code 16-909 that governs the legal relationship of fathers and mothers. This law may not have a place in the modern times of gender equality and post *Roe v. Wade* women. Yes, the law may be unconstitutional and promotes a gender and sex bias that is in direct violation of the 14th Amendment of the United States. Fortunately for the petitioner, he was able to demonstrate by video, print and witnesses that he had taken the "opportunity interest" to cultivate a parent child relationship with the minor child. This law, known to small circles as the "Daddy Cam" law, puts fathers on guard in that they must walk around filming their interactions with their children in order to have a say so in their future if "mom" gets angry and make allegations in a

court of law and finds a sympathetic judge that favors women.

3) The Family Court across the state needs some guidance in their balance of dealing with family law statutes and child support guidelines. Although the states assert that child support is completely separate from family law principles, the practical applications suggest otherwise. In small circles, child support hearings are identified as the "poor man" custody court room. Apparently, most fathers are unable to afford a full custody hearing that challenge decisions in magistrate's child-support hearings. The petitioner, Mr. Gyamfi, was fortunate enough to launch a challenge and establish his legal position on the record in a court of law. Most parents are unable to do this and are left at the mercy of a magistrate's order that literally shatters the relationship between the children's parents. This clearly was not the intention of the architects (*Supreme Court Justices and Congress*) of family law. However, it has become a reality as the family law crises has and continues to devastate families across this country.

In closing, this case has been litigated for almost four years. The lower court has demonstrated a willingness to keep this case in a perpetual state of litigation regardless of its impact on the lives of the individuals involved. We ask this court to intervene and grant this writ and at minimal request that the Attorney General of the United States, pursuant to

Rule 29 of this court, intervene and investigate these constitutional questions rose by the petitioner.

CONCLUSION

Date: 12/14/07

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Appendix A
Interlocutory Orders

District of Columbia
Court of Appeals

Case No. 06-FM-000933

Date Entered: August 23, 2006
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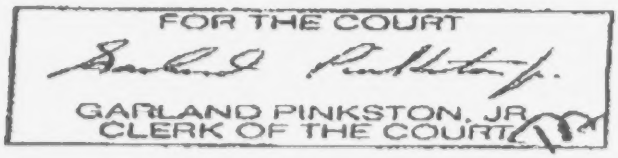
SUITE 300
WASHINGTON, DC 20004

06-FM-KWAME GYAMFI V. JANET BROWN
DRB1036-04

ORDER

On consideration of the notice of appeal filed in this case on July 26, 2006, and the statement regarding transcript, it is

ORDERED that a briefing order will be issued upon the filing in this court, by the Clerk of the Superior Court, of the record index and transcipts in accordance with D.C. App. R. 11 (b)(3)(A). (dlm)



District of Columbia
Court of Appeals

Case No. 06-FM-000933

Date Entered: December 6, 2006

ARDLIA DAVIS
717 D STREET N.W.
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WASHINGTON, DC 20004

06-FM-KWAME GYAMFI V. JANET BROWN
DRB1036-04

ORDER

It appearing that the complete record on appeal has been filed with this court, it is
ORDERED that appellant's brief and the appendix including the documents required by D.C. App. R 30(a)(1), shall be filed within 40 days from the date of this order, and appellee's brief shall be filed within 30 days thereafter. See D.C. App. R. 31
(dlm)

FOR THE COURT
GARLAND PINKSTON, JR.
CLERK OF THE COURT

District of Columbia
Court of Appeals

Case No. 06-FM-933

Date entered: April 11, 2007

KWAME GYAMFI,
Appellant,
v. DRB1036-04

JANET BROWN,
Appellee

BEFORE: Farrell and Glickman, Associate Judges, and Terry, Senior Judge.

ORDER

On consideration of the motion of Elliot R. Brown for leave to file the lodged brief as *amicus curiae* and on further consideration of the February 23, 2007, order directing appellee to file her brief, but it appearing that both appellant and appellee are represented by counsel and that both parties have failed to file their briefs, it is

ORDERED that motion of Elliot R. Brown for leave to file his lodged brief as amicus curiae is denied. It is

FURTHER ORDERED that this court's February 23, 2007, order is hereby vacated. It is

FURTHER ORDERED that counsel for appellant shall, within 30 days from the date of this order, file his brief and that joint appendix including the documents required by D.C. App. R. 30(a)(1). Counsel for appellee shall file her brief 30 days thereafter.
Failure to comply with this order will result in this appeal being dimissed without further notice.

PER CURIAM

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District of Columbia
Court of Appeals

Date entered: April 26, 2007

Case No. 06-FM-933

KWAME GYAMFI,
Appellant,
Vs DRB1036-04

JANET BROWN,
Appellee

Case No. 07-FM-289

JANET BROWN,
Appellant,
Vs. DRB1036-04

KWAME GYAMFI
Appellee,

ORDER

On consideration of the motions of counsel for appellant and appellee to withdraw their appearances as counsel of record, and the notice of appeal filed in appeal no. 07-FM-289, it is

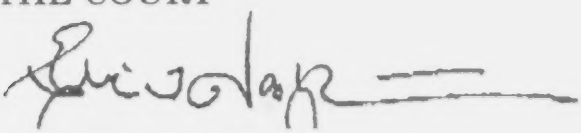
ORDERED that the motions of counsel for appellant and appellee are granted and the appearances of Ardelia Davis, Esquire, and Diedra L. McEachern, Esquire, are hereby withdrawn as counsel of record, and both appellant and appellee shall proceed *pro se*. it is

FURTHER ORDERED, *sua sponte*, that appeals nos. 06-FM-933 and 07-FM-286 are consolidated for all purposes herein. It is

FURTHER ORDERED that, in appeal no. 07-FM-289, the Clerk of the Superior Court shall transmit the record index to this court forthwith. It is

FURTHER ORDERED that appellants' brief and the appendices, including the documents required by D.C. App. R 30(a)(1), shall be filed within 40 days from the date of this order, and appellees' brief shall be filed within 30 days thereafter. See D.C. App. R. 31

BY THE COURT

"s/" 

ERIC T. WASHINGTON
Chief Judge

District of Columbia
Court of Appeals

Date entered: July 26, 2007

Case No. 06-FM-933

KWAME GYAMFI,
Appellant,
Vs DRB1036-04

JANET BROWN,
Appellee

Case No. 07-FM-289

JANET BROWN,
Appellant,
Vs. DRB1036-04

KWAME GYAMFI
Appellee,

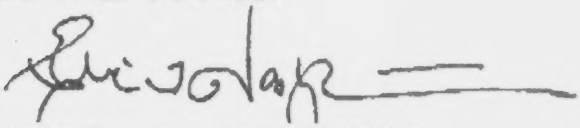
ORDER

On Consideration of appellant's motion for an extension of time within which to file the lodged brief and limited appendix in appeal no. 07-FM-298, and the opposition thereto, it is

ORDERED that appellant's motion is granted and the Clerk shall file the lodged brief and the limited appendix no. 07-FM-289. It is

FURTHER ORDERED that the brief of appellee Kwame Gyamfi shall be filed within 30 days from the date of this order.

BY THE COURT:



ERICT T. WASHINGTON
Chief Judge

District of Columbia
Court of Appeals

Date entered: April 26, 2007

Case No. 06-FM-933 & 07-FM-289

KWAME GYAMFI,
Appellant/Cross-Appelle,

Vs DRB1036-04

JANET BROWN,
Appellee/Cross-Appellant

BEFORE: Farrell and Glickman, Associate Judges, and Terry, Senior Judge

ORDER

On consideration of the renewed motion of Elliot R. Brown for leave to file his lodged brief as *amicus curiae*, it is

ORDERED that the motion of Elliot R. Brown for leave to file his lodged brief as *amicus curiae* is denied, It is

FURTHER ORDERD that Kwame Gyamfi shall, within 30 days from the date of this order, file his appellee brief in appeal 07-FM-289. Failure to file the brief will result in these appeal being submitted for consideration on the briefs as filed.

PER CURIAM

Copies to:

Elliott R. Brown
806 A. Edgehill Rd.
Richmond, VA 23222

Kwame Gyamfi
905 Jackson Valley Court
Bowie,MD 20721

Janet Brown
1317 Otis Street, N.E.
Washington, D.C. 20017

District of Columbia
Court of Appeals

Date entered: October 24, 2007

Case No. 06-FM-933 & 07-FM-289 & 07-FM-1119

KWAME GYAMFI,
Appellant/Cross-Appelle,

Vs DRB1036-04

JANET BROWN,
Appellee/Cross-Appellant

ORDER

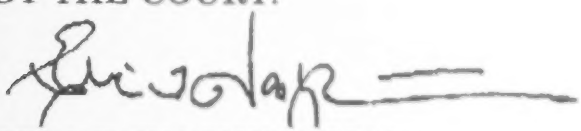
Upon consideration of the notices of appeal in these matters, and it appearing that briefing has been completed in appeals nos. 06-FM-933 and 07-FM-289, and it further appearing that no new transcript is needed for appeal no. 07-FM-1119, it is

ORDERED, sua sponte, that appeal no. 07-FM-1119 is consolidated with previously consolidated appeals nos. 06-FM-933 and 07-FM-289 for all purposes. It is

FURTHER ORDERED that Clerk of the Superior Court shall transmit the record index for 07-FM-1119 to this court. It is

FURTHER ORDERED that appellant's brief addressing the issues raised in appeal no. 07-FM-1119, and the appendix, shall be filed within 40 days from the date of this order, and appellee's brief shall be filed within 30 days thereafter.

BY THE COURT:



ERIC T. WASHINGTON
Chief Judge

Copies to:

Clerk, Superior Court

Kwame Gyamfi
905 Jackson Valley Court
Bowie, MD 20721

Janet Brown
1317 Otis St., NE
Washington, DC 20017

District of Columbia
Court of Appeals

Date entered: November 14, 2007

Case No. 06-FM-933 & 07-FM-289 & 07-FM-1119

KWAME GYAMFI,
Appellant/Cross-Appelle,

Vs DRB1036-04

JANET BROWN,
Appellee/Cross-Appellant

BEFORE: Farrell and Reid, Associate Judges, and Belson, Senior Judge.

ORDER

On consideration of the motion of Kwame GByamfi to stay the trial court orders pending appeal, it is

ORDERED that the motion of Kwame Gyamfi to stay is denied. It is

FURTHER ORDERED that the supplemental brief and appendix of Kwame Gyamfi on the issues raised in appeal no. 07-FM-1119

remains due and shall be filed on or before December 3, 2007. The reply brief of Janet Brown shall be filed 30 days thereafter.

PER CURIAM

Copies to:

Honorable Odessa F. Vincent

Kwame Gyamfi
905 Jackson Valley Court
Bowie, MD 20721

Janet Brown
1317 Otis Street. N.E.
Washington, D.C. 20017

Appendix B
Final Order from Trial Court

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FAMILY COURT DOMESTIC RELATIONS BRANCH

Kwame Gyamfi, Plaintiff

Vs.

Janet Brown, Defendant

Docket Nos. 2004 DRB 1036 and 2004 PS 108,

Judge Odessa F. Vincent

Entered: July 7, 2006

MEMORANDUM AND CUSTODY ORDER

This matter was before the court from January 24, 2005, through January 27, 2005, upon the plaintiff's complaint for Custody of Minor child; and on August 18 2005, for a motion hearing upon plaintiff's Motion to Modify Child Support based Upon Substantial and Material Change of Circumstances. On each date, both the plaintiff and defendant appeared before the court with their respective counsel. Following the August 18, 2005 motion hearing, the defendant filed a Motion for Attorney Fees.

Based upon the evidence the testimony presented during the hearings held herein, and the record herein, the Court makes the following findings of fact, conclusions of law and custody order.

FINDINGS OF FACT

1. This court has jurisdiction of this matter pursuant of DC Code 11-1101(a) and 16-4602.01, et seq.
2. On April 12, 2004, the plaintiff filed a Complaint for Custody of Minor Child. The subject of the complaint is the minor child, Isaiah Gyamfi, born March 16, 1998. The defendant filed an Answer to the complaint for custody of Minor Child on May 3, 2004. The defendant also filed a second, identical, Answer to Complaint for Custody of Minor Child on May 4, 2004.
3. On May 5, 2005, the plaintiff file a motion to modify Child support based upon substantial and material change of circumstances. The defendant fi8le an opposition thereto on May 16, 2005, and a supplement and correction to Defendant's opposition to Plaintiff's motion to Modify Child Support Based Upon Substantial and Material Change in Circumstances on May 18, 2005.
4. The plaintiff and defendant, together, are unmarried biological parents of the minor child, Isaiah Gyamfi, born March 16,1998. The defendant, and the minor child, Isaiah Gyamfi, born March 16, 1998, are bona fide residents of the District of Columbia, and have been residents of the District of Columbia for more than six months preceding the filing of the Complaint for Custody of Minor Child. Both the plaintiff and defendant are gainfully employed. The plaintiff earns approximately

$180,000 annually. The defendant earns approximately $66,000 annually. Both the plaintiff and defendant have their own homes, wherein the minor child has his own bedroom. Both homes are in close proximity to each other, and are comfortably furnished and maintained, and appropriate for the minor child. On October 19, 2002, the plaintiff married Juliette Larmie. A son was born of that marriage on February 17, 2004.

5. On March 11, 2004, in docket number 2004 PS 108, the Honorable Magistrate Judge Pamela Young Diaz entered an order that required the plaintiff to pay the sum of $1,062, bi-weekly, as child support for the minor child, Isaiah Gyamfi, born March 16, 1998. This order was based on Plaintiff's $180,000 yearly salary, and is currently in effect. On May 27, 2004, this court consolidated docket number 2004 PS 108 with docket number 2004 DRB 1036.
6. The plaintiff and defendant met in 1996. They dated for approximately one year and six months before the relationship ended. After the relationship ended, the defendant told the plaintiff that she was pregnant. The plaintiff assured the defendant that he would support her throughout the pregnancy, and did so. They attended Lamaze and mid-wife classes together. The plaintiff was present for the birth of their child, Isaiah Gyamfi, born March 16, 1998,and served as the defendant's coach during the pregnancy.
7. After the birth of the minor child, the plaintiff continued to support the defendant. The plaintiff obtained full-time employment. The

plaintiff also came to the defendant's home to assist with cooking, cleaning and caring for the baby. When the defendant returned to work, the plaintiff and defendant developed a visitation schedule. The schedule consisted of the plaintiff having custody of the minor child for four nights the first week, and the defendant having custody of the minor child for five nights the next week. This arrangement began when the minor child was three months old and continues to date.

8. The plaintiff and defendant also established a joint bank account, to which each contributed, to pay for groceries and items for the minor child. The plaintiff closed the account in October 20002, because the defendant did not want to continue the arrangement.
9. When the minor child was approximately three years of age, the plaintiff and defendant became concerned about the speech development. They conducted research to find help for the minor child. The defendant, accompanied by the plaintiff, took the minor child to Howard University Hospital ('HUH') for a speech diagnostic evaluation. Initially, the minor child was treated at HUH, but the plaintiff wanted a less clinical program. The plaintiff identified LEAP University. The minor child attended LEAP university until he successfully completed the program. It was at this time that the plaintiff and defendant began to disagree about the minor child's need for continued support.
10. The defendant was concerned about the minor child's auditory processing functions, while the

plaintiff believed the minor child did not require any further treatment. Although the plaintiff and defendant could not agree on further for the minor child, the defendant arranged for the minor child to undergo further evaluations and treatment.

11. Both the plaintiff and defendant had insurance coverage for the minor child, but payment for the minor child's therapy became an issue. There was some confusion as to which insurance company would be the primary insurance carrier for the minor child. Because of the confusion, and the fact that some of the treatments the minor child required were not covered by insurance, the defendant paid for the treatments herself.
12. When the minor child was approximately six years old, the parties' ability to communicate about issues relative to the minor child deteriorated significantly. The plaintiff and defendant stopped collaborating about the treatment for the minor child, and on other issues.
13. The minor child is generally happy and healthy. He has a solid bond with both his mother and father, and enjoys being in both homes. The minor child has friends in both neighborhoods, activities in both homes, and contact with extended family members of both his mother and father.
14. Both the plaintiff and defendant appeared to the Court to be in good health, and neither suffers from any mental disease or defect.

15. Both the plaintiff and defendant are gainfully employed, and financially capable of providing for the minor child.
16. The defendant is sincere in her request for custody of the minor child. However, the plaintiff's request for custody of the minor child is insincere, motivated by his desire to be free of his obligation to pay child support for the minor child. In August 2002, and in February 2004, the plaintiff told the defendant that he would rather pay legal fees than pay her child support. Further, the plaintiff told the defendant that if she filed a child support action, he would file a custody action.
17. During the August 18, 2005 hearing on the Plaintiff's Motion to Modify Child support based Upon Substantial Material Change of Circumstances, the plaintiff testified that he had worked under Contract as a consultant with NASA, and as a professor at Southeastern University, earning a total salary of $180,000 annually. The plaintiff testified further that the NASA contract expired on May 31, 2005, and not extended. Therefore, the plaintiff's income was reduced to between $67,000 to $68,000 annually. The plaintiff testified that he was not then currently under any consultant contract and expected no additional income beyond the $67,000 to $68,000 annually earned from his position with Southeastern University.
18. The plaintiff's testimony was impeached by defendant's exhibit 3, a May 31, 2005, AKIM Information Technology Services consulting agreement. During cross-examination, the

plaintiff admitted that there was a consulting agreement, entered into on May 31, 2005, that pays a rate of $73.08 per hour. The consulting agreement specified that the proceeds are to be payable to AKIIM Information Technology Services. The plaintiff owns AKIM Information Technology Services, and is the corporation's only employee. The plaintiff testified that he had not performed any work under the consulting agreement. However, the plaintiff's testimony was impeached by defendant's exhibits 4A through C. Defendant's exhibits 4A through C are three invoices, in the amount of $5,864.40, $1,753.92 and $6,400, respectively, which established that the plaintiff had performed services pursuant to the consulting agreement, and had received payments for the services rendered.

19. The plaintiff testified that although he owns AKIM Information Technology Services, he incorporated AKIM Information Technology Services in his wife's name to hide assets that he was receiving with the intent to avoid or reduce his child support payments. Further, the plaintiff was fully aware that he was under contract and receiving income when he filed Plaintiff's Motion to Modify Child Support Base Upon Substantial and Material Change of Circumstances, Plaintiff's reply to Defendant's Opposition to Plaintiff's Motion to modify Child Support Based Upon Substantial and Material Change of Circumstances, and when he responded to propounded

interrogatories and request for production of documents.

20. After the plaintiff's testimony on cross-examination, the plaintiff withdrew Plaintiff's Motion to Modify Child Support Based Upon Substantial and Material Change of Circumstances.

21. The defendant file a Motion for Attorney Fees on August 24, 2005. Plaintiff's Response to Defendant's Motion for Attorney Fees was filed on September 9, 2005, and Defendant's reply to Plaintiff's Response to Defendant's Motion for Attorney Fees was filed on September 23, 2005. The Defendant incurred attorney fees in the amount of $6,924.87, related to her defense of the Plaintiff's Motion to Modify Child Support Based Upon Substantial and Material Change of Circumstances. Further, the defendant incurred additional fees, not yet specified, for the preparation of the Defendant's Reply to Plaintiff's Response to Defendant's Motion for Attorney Fees, file September 23, 2005.

22. The plaintiff and defendant have adhered to a visitation schedule in place for more than three years. The minor child spends Saturday, Sunday, Monday and Tuesday nights with the defendant, and Wednesday, Thursday and Friday nights with the plaintiff. On alternate weeks, the minor child spends Saturday, Sunday, Monday, Tuesday and Wednesday nights with the defendant and Thursday and Friday nights with the plaintiff.

CONCLUSIONS OF LAW

The court adopts the foregoing Findings of Fact. In the Complaint for Custody of Minor Child, the plaintiff requested that the court grant him sole physical custody of the minor child, and averred that sole physical custody would be in the best interest of the minor child. When making a custody determination, the court's primary consideration must be in the best interest of the minor child. In order to determine the best interest of the minor child, the court is guided by consideration of the factors set forth at D.C. Code 16-914(a)(3), and all other relevant information.

In this case, the minor child is, essentially, a happy, healthy, well-adjusted child. Both parents have been fully involved in the life of the minor child. The plaintiff and defendant live in close proximity to each other, and until recently enjoyed a workable co-parenting schedule. Both parties reside in homes, wherein the minor child is comfortable and well cared for. The minor child enjoys friends, family members and activities in each home. Both parents are financially capable of providing for the minor child, and their perspective schedules do not interfere in their ability to provide for the minor child.

However, the evidence has demonstrated that the parties' ability to communicate and reach shared decisions affecting the minor child's welfare has deteriorated to an unworkable level. The plaintiff and defendant are unable to agree on the most mundane issues regarding the minor child. Indeed, the plaintiff and defendant cannot

agree on the manner in which they will communicate regarding the minor child.

Notwithstanding the plaintiff's reprehensible motiviation for the instant litigation, the Court concludes that both the plaintiff and defendant sincerely love their son. Further, the best interest of the minor child would serve wherein both the plaintiff and the defendant are afforded the opportunity to parent the minor child. Howeve as the plaintiff and defendant are unable to agree upon a co-parenting plan, the best interest of the minor child would be served where a definite schedule is implemented, and where one parent is awarded the right to final decision-making on all issues related to the health, safety and welfare of the minor child.

Attorney Fees

The defendant has moved the Court for an award of $6,924.87 as attorney fees incurred in defense of the plaintiff's Motion to Modify Child Support Based Upon Substantial and Material Change of Circumstances. The Plaintiff's frivolous motion has averred that the appropriate amount of attorney fees be awarded is $2,5499.99.

An award of attorney fees has been permitted where the custody dispute also involved an action for Child Support. See generally, J.A.W v. D.M.E, 591 A.2d 844 (D.C. 1991) (awarding attorney fees in a suit for paternity, including a claim for child support, pursuant to D.C. Code 16-916. Attorney fees may be awarded to the prevailing party in action involving child custody disputes "...as reimbursement for necessaries of the minor

child... if the engagement of counsel...was necessary to protect the interest and welfare of the children". Matin V., Tate, 492 A.2d 270, 273 (D.C. 1985), citing Paine v. Paine, 267 A.2d 356 (D.C. 1970).

Once the court has determined that there is authority for an award of attorney fees, the Court must employ a two-step inquiry: (1) whether to award attorney fees, and if so, to whom; and (2) the amount of attorney fees to be awarded. See Rachal V. Rachal, 489 A.2d 476(D.C. 1985); Steadman V. Steadman, 514 A.2d 1196, 1200-01 (D.C. 1986). In determining whether to award attorney fees, the Court may consider whether the litigation has been oppressive or burdensome to the party seeking the award. See Rachal, 489 A2d at 478. Another relevant consideration is the respective financial abilities of the parties to pay. Tydings v. Tydings, 567 A2 886, 889 (D.C. 1989)

If an award of attorney fees is warranted, the Court further excercises its discretion in setting the amount. Steadman, 514 A2d at 1201. The court is not bound by any mathematical computation of time consumed multiplied by an hourly rate. Ritz v. Ritz, 197 A2d 155, 157 (D.C. 1964). Rather, the Court considers, among other things; (c) the necessity for the legal services provided; (d) the quality and nature of the services performed; (e) counsel's skills; (f) the difficulty of the case; and (g) the results obtained. Id; Steadman, 514 A.2d at 1200. Although the Court may consider the motivation of the parties in deciding whether to make an award of fees, it does not consider such factors in determining the amount of the fees, as such consideration may

render the award punitive in nature. Rachal, 489 A.2d at 478.

Here, there is no dispute as to the propriety of awarding the defendant attorney fees for her defense of the plaintiff's Motion to Modify Child Support Based Upon Substantial and Material Change of Circumstances. The plaintiff's motion, if granted, would have significantly reduced the amount of the plaintiff's child support obligation; thereby hindering the defendant's ability to provide the minor child with the necessaries, including, but not limited to, therapy sessions to treat the minor's child's language disorder. This potential effect required the defendant to act in the best interest of the minor child, and employ counsel to represent her. See Martin, 492 A2d. at 270; Moore v. Moore, 391 A.2d 762 (D.C. 1978). Further, the plaintiff withdrew his motion after admitting to this Court that the motion was frivolous, based upon a blatant and deliberate lie. Thus, even though the plaintiff has conceded that an award of attorney fees is appropriate, the Court concludes that there is authority to award attorney fees in this matter.

Further, the Court concludes that the litigation was oppressive and burdensome for the defendant. As the defendant was forced to defend the completely frivolous litigation, it is there fore axiomatic that the unnecessary litigation was oppressive and burdensome.

Regarding the other factors the Court must consider in determining the amount of attorney fees to be awarded, both the plaintiff and defendant are gainfully employed. Both the plaintiff and defendant appeared to the Court to

be in good health, and the record indicates that both are capable of continuing in their respective employments. The plaintiff's annual salary of $180,000 is almost three times that of the defendant's salary of $66,000. Thus, the Court concludes that the plaintiff has the ability to pay attorney fees. The quality and nature of the services provided to both the plaintiff and defendant by counsel, as well as counsels' skills, were acceptable. Further, the statement of fees attached to the defendant's Motion for Attorney Fees adequately describes the services performed by defendant's counsel, and is reasonable.

The Court concludes that an award of attorney fees is appropriate, and further concludes that the plaintiff should be required to pay the entire amount of attorney fees incurred by the defendant while opposing the plaintiff's Motion to Modify Child Support Base Upon Substantial and Material Change of Circumstance, in the amount of $6,924.87.

...

ORDERED that minor child shall be allowed to contact the parent with whom he is not then residing via the minor child's cell phone. It is further

ORDERED that the plaintiff and the defendant may modify the foregoing schedule, to such other schedule as may be mutually agreed upon. It is further

ORDERED that the plaintiff and defendant are hereby awarded joint legal custody of the minor child, Isaiah Gyamfi, born March 16, 1998. The defendant is hereby awarded final decision-

making authority regarding all issues related to the health, safety and welfare of the minor child, Isaiah Gyamfi, born March 16, 1998. It is further

ORDERED that neither the plaintiff nor the defendant shall remove the minor child from the United States of America without fourteen (14) days prior notice to the parent who remains in the U.S.A. It is further

ORDERED that the March 12, 2004 Temporary Order of Support is hereby made permanent. It is further

ORDERED that the plaintiff and the defendant shall at all times comply with the following directives:

1. Each parent shall exercise, in the utmost good faith, his and her best efforts at all times to encourage and foster the maximum relations, love and affection between the minor child and the other parent. Neither the plaintiff nor the defendant shall impede, obstruct, or interfere with the exercise by the other parent of the right to companionship with the minor child.
2. All conversations, interactions and dealings of any sort between the plaintiff and the defendant, in the presence of the minor child, shall be conducted in a civil and courteous manner. At no time shall any party in this matter disparage any other party, or any family member, or member of the household of any party, in the presence of the minor child, or in any circumstances

wherein the minor child may witness or overhear any disparagement.

3. Neither the plaintiff nor the defendant, nor any person acting on their behalf, shall discuss any aspect of this litigation with the minor child, or in the presence of the minor child, or any circumstance wherein the minor child may witness or overhear any such discussions. Further, neither the plaintiff nor the defendant shall allow any other person to discuss any aspect of this litigation with the minor child.
4. Neither the plaintiff nor the defendant, nor any person acting on their behalf, shall make any inquiry of the minor child of the activities of the respective households.
5. Each parent shall promptly and fully notify the other parent of any event that significantly affects the minor child's health, education, behavior and or general welfare.

Each parent shall share with the other parent all information regarding the minor child, including, but not limited to, all identifying and contact information for the minor child's daycare provider, school, aftercare provider, extra-curricular activities, medical treatment provider(s), etc.. and ensure that both parents have equal, unfettered access to all.

SO ORDERED

"s/n"

Odessa F. Vincent

Associate Judge

Signed in Chambers

Appendix C
Trial Transcript Excerpts

TRIAL TRANSCRIPT EXCERPTS

Judge: Hon. Magistrate Diaz

Date: March 11th, 2004

File #: S108-04, page 4

(During the Child Support hearing, the respondent, Ms. Brown, alleged that Mr. Gyamfi was an absentee parent and that the child had exceptional medical expenses and private school expenses)

THE COURT: You can get the support for the minor child?

MS McEACHERN: Definitely, your honor.

THE COURT: The child has been residing with you, I assume, for the last six years at least?

MS. BROWN: Yes.

THE COURT: All right. All right, and we can do a temporary support order at this time. What I typically do in submitting my four-page order, you know, Counsel, I will do a – I'm going to run the guidelines, so I'm going to need – I do what I call summary hearings for temporary support. I don't get into all the details of all the other issues. I don't necessarily say at this time that you need to get half of a private school bill paid. That's something that you, I'm assuming you're going to negotiate as time goes on, who pays that.

MR. HUNTER: Your honor, this is a case where custody is totally shared by the parties. My client has the child half the time..

...

(The defendant, Mr. Gyamfi, is trying to make the court aware that there are no private school tuition, exceptional medical expenses nor issues with the child's health)

pg. 21

MR. GYAMFI: Now, when I had spoken to the Hospital for Sick Children, Isaiah's clinician, who is Diane, I informed her that I thought that Isaiah was – it was not fair to him to have to be going to three institutions at one time because his speech impediment, as they put it, is not so horrible that he cannot communicate in the classroom. The classroom – the teachers at Langdon School are not complaining about Isaiah's inability to communicate. And I have records from his school that suggest that Isaiah is thriving in mathematics, reading, writing, etc..

THE COURT: Can I? You know, I hate to be a momma right now, but I had the same speech issues with my own son. They don't complain that my son can't communicate. I do because I know what really he sounds like. And they're not going to provide it for you because they've got to pay for it out of their pockets, so they won't tell you in a classroom that your child had speech needs. You see it, and then you have to get the resources for your child to learn to be able to speak;

otherwise, your child will go through third, fourth, fifth grade and have speech problems and communications problems that you have to, as a parent, decide because these facilities aren't trying to tell you that you need something that you're going to pay for, or they're going to be required....

Judge: Hon. Odessa Vincent

Date: 1/24/2005

File #: 06-01912A,

Pages: 25-26

(The plaintiff, Mr. Gyamfi, is explaining to the court, the exhibits number 1 and 2, which are family photos. This was done to illustrate to the court, that the child was apart of an existing family unit)

ARMIN KUDER: What are exhibits Nos. 1, what is Exhibit No. 1 ?

KWAME GYAMFI: Exhibit No. 1 is family photos and activities of Isaiah in my household.

ARMIN KUDER: Okay. And Exhibit No. 2 is ?

KWAME GYAMFI: The DVD that illustrates the parental relationship that I have with Isaiah.
...

ARMIN KUDER: ..What are those nine pictures from?

KWAME GYAMFI: They're excerpts from the DVD

ARMIN KUDER: All right. And the DVD has been submitted as Exhibit No. 2, correct ?

KWAME GYAMFI: Yes.

(The attorney for the plaintiff, Armin Kuder, is having the witness, Mr. Gyamfi illustrate a DVD and photographic showing of his relationship to the minor child, Isaiah Gyamfi. This was evidence was to satisfy and establish the legal relationship between father and child as described under D.C. Code Sec. 16-909(a). The court interrupts the testimony as follows.)

Pages: 34

MR. KUDER: I'm trying to give this Court some feeling for how Mr. Gyamfi has been a father to Isaiah.

THE COURT: Great. I got it. Let's move on.

MR. KUDER: Okay

MR. KUDER. Can we move to the next picture ?

KWAME GYAMFI. Sure

MR. KUDER. Let's see it.

(Thereupon, the audio/visual recording played for the court was reported, but is not transcribed herein)

THE COURT: No, What I mean to say is, Mr. Kuder, I don't know how these repeated images of Mr. Gyamfi reinforce any more of what you want to do. You've shown me a series of images from the DVD, and I presume there are photos that correspond to them that show Mr. Gyamfi with his son. I don't know what the utility is of watching them from the child's birth until his upcoming seventh birthday, unless there is

something I'm missing. You want me to show, are you trying to show me that he spent time with the child? I accept what's in the photographs and what's on the DVD. I don't need to see each and every time he spent with his child.

END

(Ms. Ada Smith, has been the first and only day care provider of the minor child, Isaiah Gyamfi. Her testimony was brought in to impeach the suggestion of the plaintiff, Mr. Gyamfi being an absentee parent and establish a neutral observer of the parental arrangement between the plaintiff and defendant)

File#: 06-01912A

Pages: 166

ARMIN KUDER: And you know the plaintiff and the defendant, Kwame Gyamfi and Janet Brown.

ADA SMITH: Yes

ARMIN KUDER: How do you know them?

ADA SMITH: Their son, Isaiah, went to my day care.

ARMIN KUDER: And when was that, how long ?

ADA SMITH: The child has been in my day care six or seven years.

...

ARMIN KUDER: ..How were you paid ?

ADA SMITH: I was paid by check once a month. They paid me for the whole month, and Kwame would write me a check every month, and the check, it was a joint account. It had Janet's name on it and his name.

...

ARMIN KUDER: ..who provided transportation to your day care center or home?

ADA SMITH: Janet would, the days that Janet had the child, she would provide transportation to the day care, and the days that Kwame had him, he would provide day care, either to the day care or the school, and I would pick them up, both of them, either to the day care or the school, and I would pick them up from school.

ARMIN KUDER: Do you remember how many days each was responsible for ?

ADA SMITH: Usually, Janet would bring the children, bring Isaiah on Mondays to sometimes Wednesday. It kind of reflect from one week to the next, and I think Wednesday, sometimes he would go to Kwame on Wednesday or Thursday afternoon, and then, on Monday, it would rotate back around. Janet would bring him back.

Cont:

(Ms. Smith is being asked about the career travel of Janet Brown and its impact on the schedule and arragement. This testimony was to show the court, that both Ms. Brown and Mr. Gyamfi was in partnership in parenting the child when she traveled for business.)

ARMIN KUDER: Back in those days, did either one of the parents travel at all, out of town?

ADA SMITH: Yes.

ARMIN KUDER: Who?

ADA SMITH: Janet.

ARMIN KUDER: And who took care of transportation for Isaiah when she was gone?

ADA SMITH: His father, as far as I know.

ARMIN KUDER: His father, meaning ?

ADA SMITH: Kwame

(Dr. Ovetta Harrison-Harris, was an expert witness for the plaintiff, Mr. Gyamfi. Her testimony was to discredit the perception that the minor child had exceptional medical issues based on the child-support hearing testimony of the defendant, Ms. Brown. In addition, Dr. Harris gives her expert opinion on the issue of whether the child needed to attend three treatment facilities at one time)

Date: 1/25/2005

File #: 06-1912B

Pages: 7-10

ARMIN KUDER: And what is your occupation or profession?

DR. HARRIS: I am an associate professor, department chairperson in the Department of Communication Sciences and Disorders at Howard University.

...

THE COURT: All right, Plaintiff's 24 *[Curriculum Vitae]* is admitted and the witness is qualified as an expert in speech and language disorders.

...

ARMIN KUDER: What did you review?

DR. HARRIS: I reviewed several clinical reports, diagnostic reports, therapeutic reports.

...

ARMIN KUDER: Okay, And on the basis of, of that review what conclusion did you reach?

DR. HARRIS: On the basis of all that information I concluded that Isaiah had, had difficulties early on in his life with his language development, that he was consistently meeting goals, and that he was progressing very nicely, and at this point in time what I observed as a young man who had a wonderful control over language, and a young man who I felt may not need the services of speech language pathologist at this time, but may better served by his classroom teacher, with emphasis in language arts versus language therapy.

...

ARMIN KUDER: Assuming, Dr. Harris, that in 2003 the child was receiving the care at the Hospital for Sick Children, and assuming he was also in a group at Children's Hospital at the same time, in your opinion can you state with a reasonable degree of professional certainty, whether it would have been appropriate to have him go to still a further treatment regime at the University of Maryland?

DR. HARRIS: It is unusual for a child to receive therapy at three different facilities.

(Dr. Joyce Brown-Andrews, is the god-parent and maternal aunt of the minor child, Isaiah Gyamfi. Her testimony was introduced to provide her observations of the child with the defendant, Ms. Brown. She testified via video tape deposition in Malibu, California for the defendant, Mr. Gyamfi.)

Date: 1/25/2005

File #: 06-1912B

THERESA MAHALIK: Dr. Brown, what is your full name and profession, please?

DR. BROWN-ANDREWS: Currently, I am a staff psychiatrist in County Jail. I work with various populations. I work in the inmate reception center, which is where people are first brought when they're arrested. I work in special populations in the jail itself and I work with juveniles being tried as adults.

...

THERESA MAHALIK: What is your relationship to Janet Brown?

...

DR. BROWN-ANDREWS: Janet Brown is my sister

...

THERESA MAHALIK: What is your relationshp to Isaiah Gyamfi?

DR. BROWN-ANDREWS: Isaiah is my nephew.

...

THERESA MAHALIK: When your sister and Isaiah were visiting you at the times were Mr. Gyamfi was not visiting you also did you have an opportunity to observe your sister and Isaiah interact with each other?

DR. BROWN-ANDREWS: Three different visits. Initially, when Isaiah visited and he was two and Janet was with him, I had a lot of concerns about his their interaction...

(Ms. Wilnet A. Brown is the maternal grand mother of the minor child, Isaiah Gyamfi. She testified on behalf of the defendant, Ms. Brown. Her testimony becomes important because she admitted to an intra-family offense by which a drug raid commenced at her home while both the defendant, Ms. Brown and the minor child were present.)
Date: 1/25/2005

File #: 06-01912B

ARMIN KUDER: When she [Janet Brown] was in Las Vegas, who – she was traveling with your other child, Roy?

WILNET BROWN: Yes

ARMIN KUDER: And when was this?

WILNET BROWN: This was Christmas, the Christmas of – it was Christmas before last, which would have been 2003.

ARMIN KUDER: I don't want to be impertinent here, but Roy is – has had a drug problem, has he not?

WILNET BROWN: Yes

ARMIN KUDER: He's actually been arrested?

WILNET BROWN: Yes

ARMIN KUDER: While Isaiah was there?

WILNET BROWN: When – yes.

Appendix D
Federal Question regarding FRAP 4(a)
Rule 44 U.S. Constitutional Challenge

Court: D.C. Court of Appeals

Date Stamp: August 30th, 2007

DISTRICT OF COLUMBIA
COURT OF APPEALS

07-FM-289 Consolidated with 06-FM-933

Kwame Gyamfi,

Plaintiff,

DRB1036-04

v.

Janet Brown,

Defendant.

NOTICE OF CHALLENGE TO THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AND REQUEST FOR APPROPRIATE PROCEDURAL RELIEF PRUSUANT UPON THE (FRAP) RULE 44

COMES NOW Mr. Kwame Gyamfi, a citizen of the United States and resident in the state of Maryland to question the Court of Appeals of the District of Columbia jurisdiction of the case #07-FM-289 and to provide timely notice to the appropriate parties pursuant to Rule 44 of the Federal Rules of Appellate Procedure ("FRAP"). The Appellant, Mr. Gyamfi, also respectfully requests specific and appropriate procedural relief, as a direct consequence and discussion provided in this Notice.

PROCEDURAL SETTING

On April 11, 2007 this court issued an order directing the counselor for the plaintiff/ appellant to file his legal brief in the above matter "within 30 days" from this order. The defendant/appelle, Ms. Brown, was ordered to file her reply brief "30 days thereafter". The court further issued an order to vacate the defendant/appelle's notice of appeal dated February 23rd, 2007 case number #07-FM-289.

On April 26th, 2007 the Chief Judge of the Court of Appeals over ruled the tribunal's April 11th, 2007 order. The Chief Judge reinstated the 07-FM-289 case and consolidated this case with the appellant's case #06-FM-933. In addition, the Chief Judge granted the counselor's motion to withdraw from the case. Both the Appellant and the Appelle were ordered to proceed with the case pro se and was given an additional 40 days to file their prospective briefs. Ms. Brown failed to file her prospective brief on time and was given the option to file a motion out of time. Mr. Gyamfi, filed a response motion to deny this option based on Rule 4(a) which required a timely notice of appeal be filed 30 days after the final order. The final order was issued in July 7, 2006 of last year and the defendant filed her notice in February 23, 2007 a total of 231 days had already elapsed. Mr. Gyamfi argued that the Court of Appeals lack jurisdiction in hearing this matter. On July 26th, 2007 the Chief Judge denied the plaintiff's motion to deny the re-instatement of the case #07-FM-289. The plaintiff, Mr. Gyamfi, on August 2, 2007 filed a 'Motion to Reconsider' the dismissal of #07-FM-289. As of to date, there has been no response to the motion. Therefore, the plaintiff, Mr.

Gyamfi is moved to pursue relief based on Rule 44 of the FRAP.

If Appellant's understanding of the ruling of the Chief Judge is incorrect, this court is asked to provide immediate clarification, to prevent appellant from going too far in the wrong direction.

ISSUES WITIN THIS NOTICE

D.C. Court of Appeals Jurisdiction; The D.C. Court of Appeals website provides a downloadable document that outlines the rules and procedures for the Court of Appeals. The document is called, From the Ground Up: The Fundamentals of Practice in the D.C. Court of Appeals. In section 4 (d) the rule specifically states; "But regardless of the type of proceeding, the time period is jurisdictional and the Court will not hear an appeal filed after it has expired". The appellant is confused and concern about the actions of the Court. Mr. Gyamfi relies on the rules, procedures and most importantly the landmark Supreme Court cases that established the foundation for Family Law. If the court will not stand behind their own rules, rules of the FRAP, then the Appellant feels as though the landmark cases will not be supported as well. This action will extend the proceedings to include en banc proceedings and possible federal appellant proceedings, which the plaintiff is opposed.

Right to an Attorney (6th Amendment Violation), The action of the Plaintiff's attorney, Ms. Davis, is incredulous and negligent. The 'motion to withdraw as counsel' she filed on April 13th, 2007 damaged and prejudiced this case. The Chief Judge relied on this document to issue an order that over ruled the tribunal's order dated April 11th, 2007, which Mr. Gyamfi never encouraged, signed or supported a

motion upon which he proceed in this matter pro se. This matter is currently before the Bar Counsel. Mr. Gyamfi asserts that this action by the Chief Judge violated his 6th Amendment right to counsel. The specific concern regarding this action gives a false perception that could prejudice the tribunal empowered to decide this matter.

Prejudice the record, 'Red Herring'; The primary argument in the trial courts final order suggest that the plaintiff is 'angry' about child support. This argument was based on an action of the court that is not supported by factual findings in the trial transcript. Therefore, Mr. Gyamfi, strongly oppose the defendant's case #07-FM-289 regarding attorney fees. This action is an attempt to prejudice the record by creating a 'Red Herring' that detracts from the real issue of the child's best interest in this matter. Erroneous act by the Chief Judge; The appellant, Mr. Gyamfi, has been unable to find any case law, rules or procedure that authorized the Chief Judge to intervene in the matter and overrule the tribunal without any legal instruments in the form of a motion or explanation. Mr. Gyamfi is simply confused and baffled by this action. It is very possible that the Chief Judge's action may have permanently damaged the credibility of this case. This action suggest that the tribunal lacks the power to decide matters in these proceedings and that at the stroke of a pen, their decisions can be overruled outside the regular procedure of rules that govern due process.

IN CONCLUSION; Mr. Gyamfi simply wants the court to provide an explanation as to the recent actions of the court and request an oral calendaring of this case once the final documents have been submitted. In addition, Mr. Gyamfi asks that the case #07-FM-933 be dismissed.